

Robert J. Jurasek, Esq. ASBA 9111071
PENTLARGE LAW GROUP
1400 W. Benson Blvd., Suite 550
Anchorage, Alaska 99503
Telephone (907) 276-1919
Fax: (907) 276-8000
Attorneys for Plaintiff

RECEIVED
APR 26 2007
CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA, AT ANCHORAGE

MARLENE G. MEYER,)
)
Plaintiff,)
)
v.)
)
ARG ENTERPRISES, INC., aka)
STUART ANDERSON'S CATTLE)
COMPANY RESTAURANTS,)
)
Defendant.)
_____)

Case No. A05-0239 CV (JKS)

PLAINTIFF'S TRIAL BRIEF

COMES NOW Plaintiff, Marlene G. Meyer by and through her attorneys, PENTLARGE LAW GROUP, and hereby files her Trial Brief.

This case arises out of a January 7, 2000 trip and fall accident outside of the Stuart Anderson Cattle Company Restaurant located at 300 West Tudor Road, Anchorage, Alaska. In the process of walking to her car, Ms. Meyer tripped on a piece of concrete that was close to one inch high resulting in numerous serious physical injuries including a fractured right wrist and an orbital fracture. She incurred approximately \$23,164.64 in medical bills incurred as a result of this fall. Defense counsel does not question the nature or the extent of the injuries sustained by Ms. Meyers.

PENTLARGE LAW GROUP
1400 WEST BENSON BOULEVARD SUITE 550
ANCHORAGE, ALASKA 99503
(907) 276-1919 276-8000 (Fax)

The parties agree that this is a comparative negligence case. Plaintiff has retained an expert, Richard Buttons, a professional, licensed engineer. Mr. Buttons provided an expert report noting that the subject walkway did not comply with Uniform Federal Accessibility Standards or the Uniform Building Code. He opines that the noncompliant concrete created a trip hazard and that the walkway is defective. Defense counsel has hired an expert that claims that frost heaves likely attributed to the rising of the concrete but provides no explanation as to how such frost heaves would exist in the Anchorage climate and/or whether or not the concrete was simply poured badly without appropriate subsurface preparations. The court has not ruled on defendant's motions on negligence per se and to exclude Mr. Buttons' expert report.

The defendant has objected to the introduction of Ms. Meyer's medical bills and medical records at trial on the basis of relevance. With regard to the medical bills, there is growing opinion in Alaska state trial courts that the introduction of such evidence is admissible as it may be useful to the jury in establishing the severity of the plaintiff's injury and the extent of the medical care. As to the medical records, such evidence is routinely introduced at trial in personal injury claims in order to allow the jury to assess the nature and extent of physical injuries and related damages.

Plaintiff re-states her objections to defendant's photographs of plaintiff's own business' premises (relevance). The jury will be able to answer the question of whether or not defendant's sidewalk fell below the standard of care through the expert testimony of Mr. Buttons and defendant's own expert. In turn, the jury can decide for themselves whether Ms. Meyer should be apportioned any comparative fault based upon the general ordinary person standard that applies to all members of our society, landowners and non-landowners alike.

Aside from the medical damages, Ms. Meyer is claiming past pain and suffering and future pain and suffering. The injuries she sustained were extremely significant and quite painful. For over two years she has had constant physical pain and suffering and will likely have pain and suffering for the remainder of her life expectancy as a result of the injuries she sustained in this incident.

26th
DATED at Anchorage, Alaska on this _____ day of April, 2007.

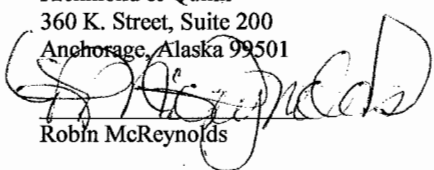
PENTLARGE LAW GROUP
Attorneys for Plaintiff

By: _____
Robert J. Jurasek
ABA 9111071

Certificate of Service

The undersigned hereby certifies
that on the 26 day of April, 2007,
a true and correct copy of the foregoing
document was served by U.S. Mail/
Hand Delivery/Electronic Means on
the following:

William A. Earnhart, Esq.
Richmond & Quinn
360 K. Street, Suite 200
Anchorage, Alaska 99501


Robin McReynolds